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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:	:	Chapter 11
	:	
LTL MANAGEMENT LLC,	:	Case No. 23-12825 (MBK)
	:	
Debtor.	:	
	:	

**MOVANT, ANTHONY “EMORY” HERNANDEZ VALADEZ’S SUPPLEMENTAL
REQUEST FOR RELIEF FROM THE AUTOMATIC STAY SO TRIAL CAN
COMMENCE ON MAY 15, 2023**

Anthony “Emory” Hernandez Valadez (“Movant”) hereby submits this Supplemental Statement in advance of the continued hearing on his motion for stay relief set for May 3, 2023.

This statement is to update the Court on the status of trial preparations in Movant's state court action.

When this Court granted Movant preliminary relief on April 20, 2023, Movant immediately offered dates for his remaining witnesses—all occurring prior to this Court's continued hearing of May 3, 2023. The only witness offered by the Movant not yet completed should be completed early next week. Dr. Dean Felser (Stanford oncologist) was deposed for several hours on May 1, 2023 and was offered to be deposed again on May 8. J&J counsel advised that the 8th was not a good date for them, so Movant offered Dr. Felsher offered the May 9th to complete this deposition. In addition, as of this writing, Dr. Leah Backhus, the treating surgeon is being deposed for the 4th day and her deposition should be finished on May 2nd. Dr. Jerrold Abraham (movant's Pathologist) is being deposed today, May 2nd. Both Dr. Abraham and Dr. Felsher have been deposed and cross examined in multiple trial trials.

The following depositions of Movant's witness list **have been completed**:

Anthony "Emory" Valadez – September 13, 15, 19 and 20, 2022

Anna Camacho – mother – March 2, 2023

Dr. William Longo – Material Scientist – March 3, 2023

Dr. Barry Horn -Pulmonary expert – March 27, 2023

Dr. Alan Smith – Epidemiologist – March 30, 2023

Dr. Arthur Langer – Geologist – March 3, 2023

Sererita Ochoa – Emory's grandmother - April 3, 2023

Toni Hernandez - Emory's aunt - April 3, 2023

Serena Hernandez – Emory's aunt - April 3, 2023

Dr. David Egilman – Occupational and environmental medicine – April 4 & 26,
2023

Dr. Mohana Roy – Oncologist – April 27, 2023

Dr. Ronald Dodson - cell biologist – April 27, 2023

Robert Johnson – economist – May 1, 2023

The defendants witnesses which have been completed include:

Dr. David Weill – pulmonary – April 3, 2023

Dr. Dominik Alezander – epidemiologist - April 4, 2023

James Mittenthal – LTL and J&J PMK/COR – March 31 and April 2, 2023

Dr. Leonel Van Zyl – genetic – March 20, 21, 30 and April 4, 2023

Defendants have not been as forthcoming with providing dates for their own witnesses. However, after several attempts to meet and confer, Defendants have offered ALL WITNESSES (with the exception of one defense expert witness) to occur before May 15, 2023. Defendant first outstanding expert witness was only offered for May 5, 2023—over two weeks after this Court made its preliminary order.

Defendants’ remaining depositions are presently scheduled as follows:

Safeway/Albertsons PMK on May 3, 2023;

Dr. Lucian Chireac on May 5, 2023;

Ms. Sandra Kinsey on May 8, 2023;

Ms. Laura Dolan on May 8, 2023;

Christy Barlow on May 11, 2023;

Walmart Retailer PMK on May 11, 2023;

Savemart PMK on May 12, 2023;

Dr. Matthew Sanchez on May 17, 2023.

The state court has held Case Management Conferences on April 20 & 27, 2023, in order to ensure this action is ready for trial immediately. The Court has scheduled hearing for all remaining motion practice, including motions in limine, on May 4, 2023. (The Movant attaches the transcript from the April 27, 2023 hearing with Judge Seabolt for consideration and includes excerpts below.). If there are additional motions on expert witnesses, the court has agreed to have those motions heard during the week of May 8, 2023.

14 something on Wednesday, but I suggest if they do that,
15 we should argue this on Thursday, the 4th.
16 THE COURT: As it happens, I was going to
17 suggest, part of it, looking at your deposition
18 calendar, **Thursday is open**. We have been meeting on
19 Thursday.
20 **Frankly, what I would like to do is to kind of**
21 **work backwards for that as a target date to try to get**
22 **everything that is fully briefed argued next Thursday**
23 **afternoon, and that which isn't fully briefed, try to**
24 **make sure that it is fully briefed.**

In the state court's words, "my hope that [Judge Kaplan] gives us the go-ahead [for trial] on May 3rd." [Ex. A to Satterley Decl., p.16.]

15 MR. SATTERLEY: Your Honor, with regard to the
16 case, so that it's very clear, Judge Kaplan, if he
17 allows the case to be released from the stay next
18 Wednesday, on the 3rd, would this Court be able to
19 begin this trial somewhere around the 15th?

20 THE COURT: That's what I am planning on.

21 MR. SATTERLEY: Thank you, Your Honor.

22 THE COURT: This isn't entirely within my
23 control, but that's certainly my hope and plan. And I
24 don't have a conflicting trial.

From the state court's perspective, this action is will be ready to begin trial as early as May 15, 2023.

6 THE COURT: I do think the 15th probably is the
7 more practical target date, but I would like to try to
8 make sure that we are as firm as possible.

9 And I realize Judge Kaplan needs to make a
10 decision, and that's fine. This is an unusual
11 situation, but in fact, he controls my calendar, at
12 least this case.

Mr. Valadez's health demands an immediate trial date. Movant's treating oncologist was deposed on April 27, 2023. She testified that Mr. Valadez is really toward the end of his life:

4 THE DEPONENT: Sure. I can be quite
5 direct. I think that he's really towards the end
6 of his life. I don't think that there are any
7 really validated treatments left. I have consulted
8 with physicians throughout the country about his
9 case and different treatment options available.
10 This next chemotherapy that I'm changing to, I do
11 not have very high hopes for. The hope is
12 essentially just to prevent additional growth. I
13 do not anticipate significant shrinkage or benefit
14 from the next treatment.

19 Q. Can you elaborate on what you meant there
20 by the approximate 4 to 4.5 on the 5-scale?

21 A. Sure. I apologize that that's not clear.

22 Mr. Valadez has had a really hard time
23 discussing any imaging results from the start of
24 his care. In the middle of his treatment course,
25 he was able to discuss that a little bit more, but

Dr. Roy further elaborated that his recent scans are near "the worst possible thing:"

1 that had declined in the light of bad news, and so
2 he wanted me to say 1 being good and 5 being kind
3 of the worst possible thing, where I would rate it
4 and not go into more details of his imaging.

5 Q. So that 4 to 4 1/2 is towards that worst
6 possible scenario then; is that right?

7 A. Correct.

As a result of Mr. Valadez's continuously worsening health condition, the state court preparing the action for immediate trial, and all arguments and evidence included in Movant's original motion, Movant respectfully requests this Court grant full relief at this May 3, 2023, hearing. Mr. Valadez deserves his day in Court.

CONCLUSION

Movant respectfully requests this court to grant full relief from the automatic stay and permit him to proceed to trial on May 15, 2023.

DATED: May 2, 2023

Respectfully submitted:

KAZAN, McCLAIN, SATTERLEY &
GREENWOOD, A Professional Law Corporation

- and -

SAIBER LLC
Counsel for Movant Anthony Hernandez Valadez

By: /s/ John M. August
JOHN M. AUGUST